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September 16, 2022

BY ECF

The Honorable Sarah L. Cave
United States District Court for the Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Catherine McKoy, et al. v. The Trump Corporation, et al., 18-cv-9936 (LGS) (SLC)

Dear Judge Cave:

We write on behalf of Plaintiffs and the putative class in the above-referenced action, pursuant to Rule I.G.2 of Your Honor's Individual Rules, to respectfully request provisional approval to file under seal an unredacted version of Plaintiffs' letter to the Court filed earlier today concerning a deposition-related dispute (the "Letter").

In the Letter, Plaintiffs refer to information found in, and quote from, documents produced by ACN that have been designated "Confidential" under Paragraph 3 of the operative Protective Order. ECF 112. One of the designated documents is also attached as an exemplar exhibit.

In accordance with Paragraph 16 of the Protective Order and this Court's Individual Rules, Plaintiffs have provisionally filed the unredacted Letter and attached exhibit under seal and have provisionally redacted references to the information designated as Confidential in the version of the Letter filed on the public docket.¹

Plaintiffs have also provisionally redacted references to, and quotations from, the deposition transcripts of ACN's 30(b)(6) designee David Merriman and ACN's consultant Anne Archer Butcher, even though neither ACN's nor Ms. Butcher's counsel expressly designated the transcripts as "Confidential." *See also* ECF 444 at 1.

¹ In accordance with Rule I.G.2, an unredacted copy of the Letter, with redactions highlighted, will be filed under seal contemporaneously with this letter motion. *See* Standing Order, 19-mc-583 (Dec. 19, 2019); Electronic Case Filing Rules & Instructions, Rule 6.8. Plaintiffs will timely serve the unredacted version on Defendants, ACN, and Ms. Butcher.

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2

Pursuant to Paragraph 16 of the Protective Order, “the party with the interest in confidential treatment bears the burden of persuasion.” ECF 112. In this case, ACN and Ms. Butcher, as the third parties that made (or could make) the relevant confidentiality designations, have the “interest in confidential treatment.” Accordingly, on September 16, 2022, counsel for Plaintiffs emailed counsel for ACN and Ms. Butcher regarding Plaintiffs’ intention to file on the public docket a redacted version of the Letter with its attached exhibit under seal, and notified them that it is ACN’s and Ms. Butcher’s obligation to promptly submit a letter in support of maintaining those materials in redacted form and/or under seal on the public docket.

For the avoidance of doubt, Plaintiffs take no position at this time on whether the redacted information and exhibit filed under seal were properly designated (or should be designated) as confidential or whether they ought to remain sealed from the public. Plaintiffs further respectfully reserve the right to challenge the relevant confidentiality designations in the future pursuant to Paragraph 15 of the Protective Order.

Respectfully submitted,



John C. Quinn

cc: Counsel of Record (*via* ECF)
Counsel for ACN and Anne Archer Butcher (*via* ECF and e-mail)